

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-ALTMAN/REID

DOMINIK KARNAS, *et al.*,

Plaintiffs,

v.

MARK CUBAN, *et al.*,

Defendants.

**DEFENDANTS MARK CUBAN'S AND DALLAS BASKETBALL LIMITED d/b/a
DALLAS MAVERICKS' RESPONSE TO PLAINTIFFS' NOTICE OF SUPPLEMENTAL
AUTHORITY [ECF NO. 309] REGARDING DEFENDANTS' OMNIBUS MOTION TO
DISMISS THE SECOND AMENDED COMPLAINT [ECF NO. 189]**

Plaintiffs' *ninth* Notice of Supplementary Authority is as equally unpersuasive as the previous eight. ECF No. 309. The non-binding, out-of-circuit decision, *Securities and Exchange Commission v. Payward, Inc.*, No. 23-cv-06003-WHO (N.D. Cal. Aug. 23, 2024), allows the SEC's claims that defendants operated as unregistered brokers, dealers, exchanges and clearing agencies to proceed based in part on the theory that two crypto assets, ALGO and SOL, may have traded on Payward's secondary markets as investment contracts. ECF 309-1 at 1. But a regulator's allegations over secondary trading in assets that are not at issue in this case have little to do with Plaintiffs' claims here. The instant Plaintiffs do not allege that Defendants operated an exchange, and only EPAs and VGX tokens are at issue in this case. Plaintiffs here allege Defendants promoted Voyager's platform, not that they financially benefitted from earning trading-based transaction fees and proprietary trading. ECF No. 189 at 5. Moreover, the *Payward* court recognized that determining whether crypto transactions are securities transactions is asset- and offer-specific, making that court's holdings regarding ALGO and SOL irrelevant here. In short, *Payward* is yet another insignificant decision that does not control the issues pending before this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via the Court's CM/ECF which will send notification of such filing to all attorneys of record.

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